

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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DAVID WYNTER,

Plaintiff,

-v-

9:11-CV-0257

G. RAMEY, Deputy Superintendent at Great Meadow Correctional Facility; Deborah A. Cooney, Sergeant at Great Meadow Correctional Facility; Beebe, Sergeant at Great Meadow Correctional Facility; R. Blood, Correctional Officer at Great Meadow Correctional Facility; Jason S. Nephew, Correctional Officer at Great Meadow Correctional Facility; Colleen L. Russell, Correctional Officer at Great Meadow Correctional Facility; John L. Gille, Correctional Officer at Great Meadow Correctional Facility; Christopher M. Bickford, Correctional Officer at Great Meadow Correctional Facility; T. Rocque, Correctional Officer at Great Meadow Correctional Facility; Danny Porlier, Correctional Officer at Great Meadow Correctional Facility; S. Alden, RN II Badge #407 at Great Meadow Correctional Facility; D. Zlipp, RN at Great Meadow Correctional Facility; E. Dunning, Badge #246 RN at Great Meadow Correctional Facility; John Doe, Nurse at Great Meadow Correctional Facility; Nesmith Fisher, PA at Great Meadow Correctional Facility; Norman R. Bezio, Director of Disciplinary Albany Office; and John Doe, DOCS Inspector General's Office,

Defendants.

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APPEARANCES:

OF COUNSEL:

DAVID WYNTER,  
Plaintiff Pro Se  
05-A-1750

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ROGER W. KINSEY, ESQ.  
Ass't Attorneys General

DAVID N. HURD  
United States District Judge

**DECISION and ORDER**

Plaintiff brought this civil rights action pursuant to 42 U.S.C. § 1983. On September 3, 2013, the Honorable David E. Peebles, United States Magistrate Judge, advised, by Report-Recommendation, that defendants' motion for summary judgment be granted in part and denied in part. Judge Peebles also ordered plaintiff to show cause in writing as to why his claims against defendants Dunning and Zlipp should not be dismissed for failure to timely serve process. Plaintiff requested and was granted an extension of time to show cause and has since objected in writing to dismissal of defendants Dunning and Zlipp.

Based upon a de novo review of the portions of the Report-Recommendation to which plaintiff objected, the Report-Recommendation is accepted in whole. See 28 U.S.C. § 636(b)(1).

Therefore, it is

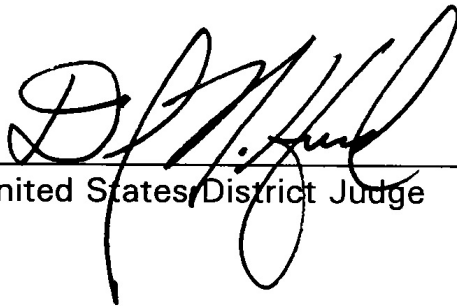
ORDERED that

1. Defendants' motion for summary judgment is GRANTED in part and DENIED in part; and

2. All of plaintiff's claims, including those asserted against the "Doe" defendants, and defendants Dunning and Zlipp are DISMISSED with the exception of his excessive force claim against defendants Gille, Blood, Nephew, Russell, Bickford, Rocque, Porlier, and Beebe, as well as a failure to intervene cause of action against defendant Cooney.

The Clerk is directed to serve a copy of this Decision and Order upon plaintiff in accordance with the Local Rules.

IT IS SO ORDERED.



United States District Judge

Dated: September 30, 2013  
Utica, New York.